

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 221, “Flammable and Combustible Liquids,” Iowa Administrative Code.

Iowa Code chapter 101 establishes the authority of the State Fire Marshal to establish requirements for the safe transportation, storage, handling and use of flammable and combustible liquids, which include motor vehicle fuels such as gasoline, “traditional” ethanol (90% gasoline, 10% ethanol) and higher blends of ethanol, including E-85. 661—subrule 221.4(2) governs the dispensing of ethanol blended fuels. Generally, dispensers used for motor vehicle fuels are required to be “listed” by an independent testing laboratory for use with the fuel dispensed. However, there has not, until recently, been a dispenser available which was listed for use with E-85, and provisions for the use of other dispensers, with additional monitoring requirements, were included in subrule 221.4(2).

Iowa Code section 455G.31 requires the State Fire Marshal to monitor the potential availability of one or more dispensers listed for use with E-85 and to issue an order regarding the use of listed dispensers once they have become commercially available. Recently, the State Fire Marshal was notified of the commercial availability of two dispensers listed for use with E-85 and issued an order regarding the use of such dispensers, as required by Iowa Code section 455G.31. The order carries out specific requirements specified in Iowa Code section 455G.31: 60 days after the issuance of the order, any new dispensers installed for use with E-85 must be listed for this use, and four years after the issuance of the order, E-85 may be dispensed only from dispensers listed for use with E-85.

The amendment proposed herein would modify the subrule to be consistent with the order issued by the State Fire Marshal. Additionally, the amendment modifies the definition of “E-10” to include blends of gasoline and ethanol up to 16 percent ethanol, rather than 15 percent; coordinates the definition of “E-blend” with the definition of “E-10”; and provides a definition of “listed” to clarify that a piece of equipment which is of a model that has been listed for a specific use shall be considered to be listed regardless of whether it was manufactured prior to or after the date on which the listing takes effect.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 9283B**. The Adopted and Filed Emergency rule making became effective December 1, 2010. The content of that submission is incorporated by reference.

Any interested party may submit comments on the proposed amendment to the Agency Rules Administrator, Department of Public Safety, State Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by fax to (515)725-6195; or by E-mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us). Comments must be received by 4:30 p.m. on January 4, 2011.

A public hearing on this proposed amendment will be held at 9:30 a.m. on January 4, 2011, in the First Floor Public Conference Room (Room 125) at the State Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319. The hearing room is fully accessible. Persons wishing to speak at the hearing should contact the Agency Rules Administrator by E-mail sent to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) or by telephone at (515)725-6185 at least one day prior to the hearing.

The proposed amendment would be subject to the general waiver provisions which govern rules of the State Fire Marshal.

This amendment is intended to implement Iowa Code section 455G.31.